

**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 105: CITIES AND TOWNS**

**§1112. RECAPTURE PENALTY**

Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification except when the change is occasioned by a transfer resulting from the exercise or the threatened exercise of the power of eminent domain. [1987, c. 728, §9 (RPR).]

For land that has been classified as farmland under this subchapter, the penalty is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this paragraph in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this procedure, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months from the date of the filing of the tax lien certificate instead of 18 months. [1999, c. 731, Pt. Y, §5 (AMD).]

A penalty may not be assessed at the time of a change of use from the farmland classification of land subject to taxation under this subchapter to the open space classification of land subject to taxation under this subchapter. A penalty may not be assessed upon the withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as timberland under subchapter 2-A. There also is no penalty imposed when land classified as timberland is accepted for classification as open space land. A penalty may not be assessed upon withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this subchapter. A penalty may not be assessed upon withdrawal of land enrolled under the Maine Tree Growth Tax Law if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this chapter. The recapture penalty for withdrawal from farmland classification within 10 years of a transfer from either open space tax classification or timberland tax classification is the same imposed on withdrawal from the prior tax classification, open space or tree growth. The recapture penalty for withdrawal from farmland classification more than 10 years after such a transfer will be the regular farmland recapture penalty provided for in this section. In the event a penalty is later assessed under subchapter 2-A, the period of time that the land was taxed as farmland or as open space land under this subchapter must be included for purposes of establishing the amount of the penalty. The recapture penalty for withdrawal from open space classification within 10 years of a transfer from tree growth classification occurring on or after August 1, 2012 is the same that would be imposed if the land were being withdrawn from the tree growth classification. The recapture penalty for withdrawal from open space classification more than 10 years after such a transfer will be the open space recapture penalty provided for in this section. [2011, c. 618, §8 (AMD).]

If land is withdrawn from classification under this subchapter, any penalty assessed may be considered for abatement pursuant to the procedures incorporated in subchapter VIII. [1987, c. 728, §9 (RPR).]

For land classified as open space under this subchapter, the penalty is the same as that imposed for withdrawal from tree growth classification in section 581 and may be assessed and collected as a supplemental assessment in accordance with section 713-B. [1993, c. 452, §12 (AMD).]

**SECTION HISTORY**

1975, c. 726, §2 (NEW). 1983, c. 400, §§2,3 (AMD). 1987, c. 728, §9 (RPR). 1989, c. 555, §19 (AMD). 1989, c. 748, §6 (AMD). 1993, c. 452, §§12,13 (AMD). 1995, c. 603, §2 (AMD). 1999, c. 731, §Y5 (AMD). 2009, c. 434, §19 (AMD). 2011, c. 404, §2 (AMD). 2011, c. 618, §8 (AMD).

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